

Introduced by Senator Murray

February 21, 2003

An act to amend Section 2855 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1035, as introduced, Murray. Private employment: personal service contracts.

Existing law provides that a contract to render personal services, with certain exceptions, may not be enforced against an employee beyond 7 years from the commencement of service.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2855 of the Labor Code is amended to
2 read:
3 2855. (a) Except as otherwise provided in subdivision (b), a
4 contract to render personal service, other than a contract of
5 apprenticeship as provided in Chapter 4 (commencing with
6 Section 3070), may not be enforced against the employee beyond
7 seven years from the commencement of service under it. Any
8 contract, otherwise valid, to perform or render service of a special,
9 unique, unusual, extraordinary, or intellectual character, which
10 gives it peculiar value and the loss of which can not be reasonably
11 or adequately compensated in damages in an action at law, may



1 nevertheless be enforced against the person contracting to render
2 the service, for a term not to exceed seven years from the
3 commencement of service under it. If the employee voluntarily
4 continues to serve under it beyond that time, the contract may be
5 referred to as affording a presumptive measure of the
6 compensation.

7 (b) Notwithstanding subdivision (a):

8 (1) Any employee who is a party to a contract to render
9 personal service in the production of phonorecords in which
10 sounds are first fixed, as defined in Section 101 of Title 17 of the
11 United States Code, may not invoke the provisions of subdivision
12 (a) without first giving written notice to the employer in
13 accordance with Section 1020 of the Code of Civil Procedure,
14 specifying that the employee from and after a future date certain
15 specified in the notice will no longer render service under the
16 contract by reason of subdivision (a).

17 (2) Any party to such a contract shall have the right to recover
18 damages for a breach of the contract occurring during its term in
19 an action ~~commenced~~ *commenced* during or after its term, but
20 within the applicable period prescribed by law.

21 (3) In the event a party to such a contract is, or could
22 contractually be, required to render personal service in the
23 production of a specified quantity of the phonorecords and fails to
24 render all of the required service prior to the date specified in the
25 notice provided in paragraph (1), the party damaged by the failure
26 shall have the right to recover damages for each phonorecord as to
27 which that party has failed to render service in an action which,
28 notwithstanding paragraph (2), shall be commenced within 45
29 days after the date specified in the notice.

